

TITLE 7
SPECIAL PROCEEDINGS

CHAPTER 6
CONTEMPTS

7-601. CONTEMPTS DEFINED. The following acts or omissions in respect to a court of justice, or proceedings therein, are contempts of the authority of the court:

1. Disorderly, contemptuous or insolent behavior toward the judge while holding the court, tending to interrupt the due course of a trial or other judicial proceedings.

2. A breach of the peace, boisterous conduct, or violent disturbance tending to interrupt the due course of a trial or other judicial proceedings.

3. Misbehavior in office or other wilful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner or other person appointed or elected to perform a judicial or ministerial service.

4. Deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding.

5. Disobedience of any lawful judgment, order or process of the court.

6. Assuming to be an officer, attorney, counsel of a court, and acting as such without authority.

7. Rescuing any person or property in the custody of an officer by virtue of an order or process of such court.

8. Unlawfully detaining a witness or party to an action while going to, remaining at, or returning from, the court where the action is on the calendar for trial.

9. Any other unlawful interference with the process or proceedings of a court.

10. Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness.

11. When summoned as a juror in a court, neglecting to attend or serve as such, or improperly conversing with a party to an action to be tried at such court, or with any other person in relation to the merits of such action, or receiving a communication from a party or other person in respect to it, without immediately disclosing the same to the court.

12. Disobedience, by an inferior tribunal, magistrate or officer of the lawful judgment, order or process of a superior court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding is removed from the jurisdiction of such inferior tribunal, magistrate or officer. Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of such officer.

[(7-601) C.C.P. 1881, sec. 830; R.S., R.C., & C.L., sec. 5155; C.S., sec. 7383; I.C.A., sec. 13-601.]

7-602. REENTRY OF DISPOSSESSED PERSON ON REAL PROPERTY -- PROCEDURE UPON CONVICTION. Every person dispossessed or ejected from or out of any real property by the judgment or process of any court of competent jurisdiction, and who, not having right so to do, reenters into or upon, or takes possession of, any such real property, or induces or procures any person not having right so to do, or aids or abets him therein, is guilty of a contempt of the court by which such judgment was rendered, or from which such process issued. Upon a conviction for such contempt the court shall immediately issue an

alias process directed to the proper officer, and requiring him to restore the party entitled to the possession of such property under the original judgment or process, to such possession.

[(7-602) C.C.P. 1881, sec. 831; R.S., R.C., & C.L., sec. 5156; C.S., sec. 7384; I.C.A., sec. 13-602; am. 2012, ch. 20, sec. 2, p. 66.]

7-603. CONTEMPT IN PRESENCE OF COURT -- PUNISHMENT. When a contempt is committed in the immediate view and presence of the court, or judge at chambers, it may be punished summarily; for which an order must be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein prescribed. When the contempt is not committed in the immediate view and presence of the court, or judge at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the referees or arbitrators, or other judicial officer.

[(7-603) C.C.P. 1881, sec. 832; R.S., R.C., & C.L., sec. 5157; C.S., sec. 7385; I.C.A., sec. 13-603.]

7-604. CONTEMPT OUT OF COURT'S PRESENCE -- ATTACHMENT. When the contempt is not committed in the immediate view and presence of the court or judge, a warrant of attachment may be issued to bring the person charged to answer, or, without a previous arrest, a warrant of commitment may, upon notice, or upon an order to show cause, be granted; and no warrant of commitment can be issued without such previous attachment to answer, or such notice or order to show cause.

[(7-604) C.C.P. 1881, sec. 833; R.S., R.C., & C.L., sec. 5158; C.S., sec. 7386; I.C.A., sec. 13-604.]

7-605. PROVISION FOR BAIL. Whenever a warrant of attachment is issued, pursuant to this chapter, the court or judge must direct, by an endorsement on such warrant, that the person charged may be let to bail for his appearance, in an amount to be specified in such endorsement.

[(7-605) C.C.P. 1881, sec. 834; R.S., R.C., & C.L., sec. 5159; C.S., sec. 7387; I.C.A., sec. 13-605.]

7-606. CUSTODY OF DEFENDANT. Upon executing the warrant of attachment, the sheriff must keep the person in custody, bring him before the court or judge, and detain him until an order be made in the premises, unless the person arrested entitle himself to be discharged, as provided in the next section.

[(7-606) C.C.P. 1881, sec. 835; R.S., R.C., & C.L., sec. 5160; C.S., sec. 7388; I.C.A., sec. 13-606.]

7-607. MANNER OF PUTTING IN BAIL. When a direction to let the person arrested to bail is contained in the warrant of attachment, or endorsed thereon, he must be discharged from the arrest, upon executing and delivering to the officer, at any time before the return day of the warrant, a written undertaking, with two (2) sufficient sureties, to the effect that

the person arrested will appear on the return of the warrant and abide the order of the court or judge thereupon, or they will pay as may be directed the sum specified in the warrant.

[(7-607) C.C.P. 1881, sec. 836; R.S., R.C., & C.L., sec. 5161; C.S., sec. 7389; I.C.A., sec. 13-607.]

7-608. RETURN OF WARRANT. The officer must return the warrant of arrest and undertaking, if any, received by him from the person arrested, by the return day specified therein.

[(7-608) C.C.P. 1881, sec. 837; R.S., R.C., & C.L., sec. 5162; C.S., sec. 7390; I.C.A., sec. 13-608.]

7-609. HEARING. When the person arrested has been brought up or appeared, the court or judge must proceed to investigate the charge, and must hear any answer which the person arrested may make to the same, and may examine witnesses for or against him, for which an adjournment may be had from time to time, if necessary.

[(7-609) C.C.P. 1881, sec. 838; R.S., R.C., & C.L., sec. 5163; C.S., sec. 7391; I.C.A., sec. 13-609.]

7-610. JUDGMENT -- PENALTY. Upon the answer and evidence taken, the court or judge must determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he is guilty of the contempt, a fine may be imposed on him not exceeding five thousand dollars (\$5,000), or he may be imprisoned not exceeding five (5) days, or both; provided that a person who is guilty of contempt for neglecting to attend or serve as a juror when summoned to do so, or for failing to appear as a prospective juror when summoned by the jury commission under section [2-208](#)(4), Idaho Code, shall be fined in an amount not exceeding five hundred dollars (\$500), or may be imprisoned not exceeding five (5) days, or both; and except that if the contempt of which the defendant be adjudged guilty be a disobedience of a judgment or order for the support of minor children, he may be imprisoned not exceeding thirty (30) days in addition to such fine, under this section, as the court may impose. Additionally, the court in its discretion, may award attorney's fees and costs to the prevailing party.

[(7-610) C.C.P. 1881, sec. 839; R.S., R.C., & C.L., sec. 5164; C.S., sec. 7392; I.C.A., sec. 13-610; am. 1967, ch. 132, sec. 2, p. 302; am. 1997, ch. 200, sec. 1, p. 576; am. 2013, ch. 207, sec. 2, p. 496.]

7-611. CONTEMPT CONSISTING IN OMISSION. When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he has performed it, and in that case the act must be specified in the warrant of commitment.

[(7-611) C.C.P. 1881, sec. 840; R.S., R.C., & C.L., sec. 5165; C.S., sec. 7393; I.C.A., sec. 13-611.]

7-612. ADDITIONAL PENALTIES FOR CHILD SUPPORT DELINQUENCY. In addition to the penalties for contempt contained in this chapter, the following additional penalties are available for a child support delinquency:

(1) Work activities. In all cases under [chapter 2, title 56](#), Idaho Code, where the custodial parent or children receive temporary assistance for families in Idaho, and the obligor owes past due support and is not incapacitated, the court may issue an order requiring the obligor to participate in work activities.

(2) License suspension. Pursuant to [chapter 14, title 7](#), Idaho Code, the court may issue an order suspending a license for a child support delinquency as defined by section [7-1402](#), Idaho Code.

[7-612, added 1998, ch. 112, sec. 4, p. 417.]

7-613. ADDITIONAL PENALTIES FOR FAILING TO COMPLY WITH AN ORDER PROVIDING VISITATION WITH A MINOR CHILD. In addition to the penalties for contempt contained in this chapter, the court may issue an order suspending a license for failing to comply with an order providing for visitation with a minor child pursuant to [chapter 14, title 7](#), Idaho Code.

[7-613, added 1998, ch. 112, sec. 5, p. 417.]

7-614. NONAPPEARANCE OF DEFENDANT. When the warrant of arrest has been returned served, if the person arrested does not appear on the return day, the court or judge may issue another warrant of arrest, or may order the undertaking to be prosecuted, or both. If the undertaking be prosecuted, the measure of damages in the action is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued, and the costs of the proceeding.

[(7-614) C.C.P. 1881, sec. 841; R.S., R.C., & C.L., sec. 5166; C.S., sec. 7394; I.C.A., sec. 13-612; am. and redesisg. 1998, ch. 112, sec. 1, p. 416.]

7-615. EXCUSE FOR NONATTENDANCE -- RESTRAINT OF PERSONAL LIBERTY. Whenever, by the provisions of this chapter, an officer is required to keep a person arrested on a warrant of attachment in custody, and to bring him before a court or judge, the inability, from illness or otherwise, of the person to attend, is a sufficient excuse for not bringing him up; and the officer must not confine a person arrested upon the warrant in a prison, or otherwise restrain him of personal liberty, except so far as may be necessary to secure his personal attendance.

[(7-615) C.C.P. 1881, sec. 842; R.S., R.C., & C.L., sec. 5167; C.S., sec. 7395; I.C.A., sec. 13-613; am. & redesisg. 1998, ch. 112, sec. 2, p. 417.]

7-616. JUDGMENT IS FINAL. The judgment and orders of the court or judge, made in cases of contempt, are final and conclusive.

[(7-616) C.C.P. 1881, sec. 843; R.S., R.C., & C.L., sec. 5168; C.S., sec. 7396; I.C.A., sec. 13-614; am. & redesisg. 1998, ch. 112, sec. 3, p. 417.]